

# Order

**Michigan Supreme Court  
Lansing, Michigan**

October 28, 2020

Bridget M. McCormack,  
Chief Justice

157581  
157646

David F. Viviano,  
Chief Justice Pro Tem

Stephen J. Markman  
Brian K. Zahra  
Richard H. Bernstein  
Elizabeth T. Clement  
Megan K. Cavanagh,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 157581  
COA: 336598  
Jackson CC: 15-002787-FC

CLIFFORD DURELL McKEE,  
Defendant-Appellant.

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 157646  
COA: 333720  
Jackson CC: 15-002788-FC

RODNEY JAMAR McKEE,  
Defendant-Appellant.

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By order of May 22, 2019, the applications for leave to appeal the February 27, 2018 judgment of the Court of Appeals were held in abeyance pending the decisions in *People v Furline* (Docket No. 158296) and *People v Jenkins* (Docket No. 158298). On order of the Court, the cases having been decided on March 12, 2020, 505 Mich 16 (2020), the applications are again considered, and we direct the Clerk to schedule oral argument on the applications. MCR 7.305(H)(1).

We further ORDER the Jackson Circuit Court, in accordance with Administrative Order 2003-03, to determine whether defendant Clifford Durell McKee is indigent and, if so, to appoint the State Appellate Defender Office, if feasible, to represent the defendant in this Court.

The appellants shall file a supplemental brief within 42 days of the date of the order appointing counsel addressing whether the trial court erred in failing to grant the appellants' motion for a mistrial because their substantial rights were impaired by the admission of a codefendant's statement to the police. See *Zafiro v United States*, 506 US 534, 539 (1993), and *People v Hana*, 447 Mich 325, 345-346 (1994). In addition to the brief, the appellants shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellants' brief. The appellee shall also electronically file an appendix, or in the alternative, stipulate to the use of the appendix filed by the appellants. A reply, if any, must be filed by the appellants within 14 days of being served with the appellee's brief. The parties should not submit mere restatements of their application papers.

The total time allowed for oral argument shall be 40 minutes: 20 minutes for the appellants to be divided at their discretion and 20 minutes for the appellee. MCR 7.314(B)(2).

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issue presented in this case may move the Court for permission to file briefs amicus curiae. Motions for permission to file briefs amicus curiae and briefs amicus curiae regarding these cases should be filed in *People v Clifford Durell McKee*, Docket No. 157581, only and served on the parties in both cases.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 28, 2020

Clerk